

Court of Appeals, State of Michigan

ORDER

In re Joshua A Smith Minor

Docket No. 303128

LC No. 2009-000042-TR

Donald S. Owens
Presiding Judge

Peter D. O'Connell

William C. Whitbeck
Judges

The Court orders that the motion for immediate consideration is DENIED.

The motion to remand is GRANTED and the case is REMANDED to the probate court for an evidentiary hearing as to the evidence addressed in the motion to remand regarding expenditures from the relevant trust. In particular, appellant shall be allowed to present testimony from the accountant Barbara Vondra at the evidentiary hearing. Further, we authorize the probate court to amend the March 1, 2011 order appealed from if it concludes that it is appropriate to do so after the evidentiary hearing required by this order. MCR 7.208(A)(1).

Counsel for appellant shall file a motion in the probate court to initiate the proceedings on remand within 14 days of the Clerk's certification of this order. The Court retains jurisdiction and the time for proceeding with the appeal in this Court shall begin to run upon the conclusion of the remand proceedings. Appellant shall file with this Court a copy of the relevant pleadings filed in the trial court within 14 days after the Clerk's certification of this order. Appellant shall also file with the Clerk of this Court copies of any orders entered on remand within 14 days after entry.

The trial court shall initiate the evidentiary hearing required by this order within 56 days of the Clerk's certification of this order. Appellant's counsel shall cause a transcript of the hearing on remand to be prepared and filed within 21 days after completion of the proceedings.

Appellant may file a supplemental brief pertaining to the issues raised on remand within 21 days after the transcript of the hearing is filed. Any appellee may file a supplemental brief in response. The time for proceedings with the appeal shall begin to run 14 days after the date of this order if the motion to initiate proceedings on remand is not filed in the trial court within that 14-day period.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

DEC 14 2011

Date

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line. Below the line, the words "Chief Clerk" are printed.

Chief Clerk